

STATE OF TENNESSEE

Office of the Attorney General



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ANDY D. BENNETT
CHIEF DEPUTY ATTORNEY GENERAL

LUCY HONEY HAYNES
ASSOCIATE CHIEF DEPUTY
ATTORNEY GENERAL

PAUL G. SUMMERS
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P.O. BOX 20207
NASHVILLE, TN 37202

Reply to:
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202

MICHAEL E. MOORE
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491
FACSIMILE 615-741-2009

July 25, 2002

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

**RE: IN RE: UNITED CITIES GAS COMPANY, a Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN ACCOUNT (IPA) AUDIT
Docket No.: 01-00704**

Dear Chairman Kyle:

Enclosed is an original and fourteen copies of our Response to First Data Request Filed by United Cities Gas Company. We request that these documents be filed with the TRA in this docket. Additionally, all parties of record have been served copies of these documents. If you have any questions, kindly contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script, reading "Shilina B. Chatterjee".

Shilina B. Chatterjee
Assistant Attorney General

Enclosures

56964

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

IN RE:

**UNITED CITIES GAS COMPANY, a Division
of ATMOS ENERGY CORPORATION
INCENTIVE PLAN ACCOUNT (IPA) AUDIT**

**RESPONSE TO FIRST DATA REQUEST FILED BY
UNITED CITIES GAS COMPANY**

On July 23, 2002, United Cities Gas Company ("United Cities") filed with the Tennessee Regulatory Authority ("Authority") and served upon the Tennessee Attorney General, Consumer Advocate and Protection Division ("Attorney General"), *First Data Request from United Cities Gas Company to the Office of the Attorney General Consumer Advocate And Protection Division*. This filing contains a mixture of interrogatories and requests for production of documents seeking among other things, the legal opinions of the Attorney General and communications between legal counsel. The filing requests that the Attorney General respond on or before 4:00 p.m. on July 25, 2002.

It is evident that much of the “data request” centers on the Summary Judgment Motion filed by the Attorney General. The focus of the Summary Judgment is on the Final Order, United Cities Gas’ tariff and the record established in Docket No. 97-01364, and in particular the testimony previously given by United Cities Gas witnesses. The relevant facts to the issues in this docket are contained within these sources. The pertinent facts are cited in the summary

judgment filing of the Attorney General.¹ These facts conclusively establish that the “savings” related to negotiated transportation contracts claimed by United Cities Gas were not approved by the Tennessee Regulatory Authority.

The main thrust of the additional testimony attached by affidavit of Dr. Steve Brown is the fact obvious to all involved in this matter that no index exists by which to measure the novel approach offered by United Cities Gas in the present docket. There are no rules of civil procedure which suggest a party must clarify its argument with respect to summary judgment. Put simply, United Cities Gas is obligated to meet the Summary Judgment Motion as filed. To the extent United Cities Gas believes that the Summary Judgment Motion is short on facts or law it may point out these problems. Moreover, the Attorney General has expressed its legal opinion through the Summary Judgment filing and does not wish at this time to perform additional legal research on behalf of United Cities Gas.

Authority Rule 1220-1-2-.11(1) states, in pertinent part:

“Any party to a contested case may petition for discovery. In any case where discovery is sought, no discovery shall be undertaken until a discovery schedule is set in accordance with these rules.”

Prior to serving the discovery requests, United Cities Gas had not petitioned for discovery, and a discovery schedule has not been set in this matter. Until such time as a discovery schedule is set, the Attorney General is under no obligation to respond to the interrogatories or the request for production in United Cities’ July 23, 2002 filing. The Attorney

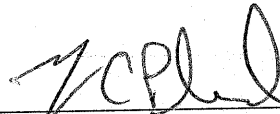
¹ The evidentiary material relevant to this matter is known and readily available to United Cities Gas.

General objects to United Cities' filing and to United Cities' attempt to conduct discovery in a manner contrary to the Authority's Rules.

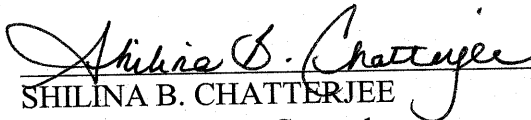
Respectfully submitted,



RUSSELL T. PERKINS
Deputy Attorney General
P. O. Box 20207
Nashville, TN 37202
(615) 741-1376



TIMOTHY C. PHILLIPS
Assistant Attorney General
P. O. Box 20207
Nashville, TN 37202
(615) 741-3533



SHILINA B. CHATTERJEE
Assistant Attorney General
P. O. Box 20207
Nashville, TN 37202
(615) 532-3382

CERTIFICATE OF SERVICE

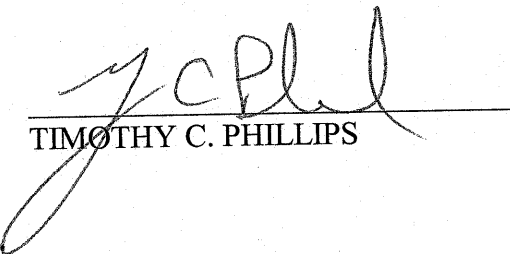
I hereby certify that on July 25, 2002, a true and accurate copies of the foregoing was served via hand delivery or facsimile transmittal and U.S. Mail on:

Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243
(Hand Delivery)

Richard Collier, Esq.
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243
(Hand Delivery)

Jon Wike, Esq.
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243
(Hand Delivery)

Joe A. Conner, Esq.
Baker, Donelson, Bearman, & Caldwell, P.C.
1800 Republic Centre
633 Chestnut Street
Chattanooga, TN 37450
(423) 752-9527 (Facsimile)



TIMOTHY C. PHILLIPS